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Attorneys for Defendants
GENERAL ELECTRIC COMPANY, GE
HEALTHCARE INC. and GE HEALTHCARE
BIO-SCIENCES CORP.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

PETER JAY GERBER and MIRIAM
GOLDBERG,

Plaintiffs,

v.

BAYER CORPORATION AND
BAYER HEALTHCARE
PHARMACEUTICALS, INC.; BMC
DIAGNOSTICS, INC.; CALIFORNIA
PACIFIC MEDICAL CENTER;
GENERAL ELECTRIC COMPANY;
GE HEALTHCARE, INC.; GE
HEALTHCARE BIO-SCIENCES
CORP.; McKESSON
CORPORATION; MERRY X-RAY
CHEMICAL CORP.; and DOES 1
through 35

Defendants.

CASE NO. CV-07-5918-JSW

**DECLARATION OF DEBORAH C.
PROSSER IN SUPPORT OF REMOVING
DEFENDANTS' OPPOSITION TO
MOTION FOR REMAND**

[Jury Trial Demanded]

(San Francisco County Superior Court Case No.
CGC07468577)

DECLARATION OF DEBORAH C. PROSSER

I, Deborah C. Prosser, declare and say that:

1. I am an attorney duly licensed to practice before of the courts of the State of
California, and before the United States District Court, Northern District of California. I

4825-4066-0738.1

1 am a partner at Kutak Rock LLP, attorneys of record for Defendants General Electric
 2 Company, GE Healthcare Inc., and GE Healthcare Bio-Sciences Corp. (collectively
 3 “GE”). All of the facts stated herein are of my own personal knowledge, and if called and
 4 sworn as a witness, I would and could testify competently thereto.

5 2. In addition to my representation of GE in this action, I also represent GE in
 6 other California gadolinium based contrast agent (“GBCA”) cases in California and am
 7 involved in other GBCA actions filed against GE in other jurisdictions. Attached as
 8 Exhibit “A” to this Declaration is a true and correct copy of a motion filed by certain
 9 plaintiffs law firms involved in other GBCA litigation in other jurisdictions seeking the
 10 establishment of a Multi-District Litigation (“MDL”) for all federal cases involving
 11 GBCA. I am informed and believe that the hearing date for the MDL motion has been set
 12 by MDL Panel for January 30, 2008.

13 3. Neither of the manufacturing defendants named in the instant case, GE and
 14 Bayer Corporation and Bayer Healthcare Pharmaceuticals, Inc. (collectively “Bayer”), has
 15 objected to the creation of an MDL for these cases, including the instant case.

16 4. Remand issues are present in both the instant case and in another state filed
 17 case entitled *Irven S. Shelton vs. General Electric Company, et al.* Civil Action No. 07-
 18 01951 (the “*Shelton Case*”), which was originally filed in Louisiana state court and has
 19 been removed based on diversity jurisdiction by GE to the United States District Court,
 20 Western District of Louisiana, Lake Charles Division. In the *Shelton Case*, GE contends
 21 that non-diverse state facility defendants were fraudulently joined to defeat diversity
 22 jurisdiction. On December 11, 2007, Plaintiffs in the *Shelton Case* filed a motion for
 23 remand.

24 5. At or about the time of the filing of the Complaint in state court, Plaintiffs’
 25 counsel issued a press release as reported and downloaded from an internet article posted
 26 on law.com. A true and correct copy of Hirsch, M., The Recorder, *Taking New Area of*
 27 *Litigation One Plaintiff Suit at a Time* is attached hereto as Exhibit “B”

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